

## **REMARKS/ARGUMENTS**

Favorable reconsideration and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks. Claims 1-33 are pending in the application.

### ***Statement of the Summary of the Interview***

At the outset, Applicants' representative thanks the Examiner for the courtesies extended during the interview conducted on November 17, 2008. Additionally, the Examiner is thanked for his indication that the 35 U.S.C. § 112, second paragraph, rejection to claims 1, 5-6, 23 and 26 would be withdrawn. Applicants have included additional arguments below related to the rejection for completeness.

Additionally, as discussed in the interview, Applicants submit that upon withdrawal of the 112 rejection noted above, the claimed subject matter clearly distinguishes over the Shiu et. al, as discussed in greater detail below.

### ***Allowable Subject Matter***

Applicants note with appreciation the indication on page 11 of the Office Action that claims 4, 9, 16-17 and 29 are allowed. However, Applicants believe that dependent claims 4, 9 and 29 should have been indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Applicants submit this is not necessary in view of the following remarks.

### *35 U.S.C. § 112 Rejections*

Claims 1, 5-6, 23 and 26 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter set forth therein. Specifically, the Examiner stated that the negative limitation “without maintaining an individual SIR target for each transport channel” of claims 1, 5-6, 23 and 26 was indefinite.

Applicants respectfully disagree for at least the following reasons.

Claim 1 recites *inter alia*, a controller operative to maintain a single signal quality (SIR) target for the plurality of transport channels, without maintaining an individual SIR target for each transport channel. In other words, claim 1 recites a positive limitation “[to] maintain a single signal quality (SIR) target for the plurality of transport channels” followed by a negative limitation “without maintaining an individual SIR target for each transport channel.”

As stated in MPEP 2173.05(i), “there is nothing inherently ambiguous or uncertain about a negative limitation. So long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. 112, second paragraph. A claim which recited the limitation ‘said homopolymer being free from the proteins, soaps, resins, and sugars present in natural Hevea rubber’ in order to exclude the characteristics of the prior art product, was considered definite because each recited limitation was definite.” *In re Wakefield*, 422 F.2d 897, 899, 904, 164 USPQ 636, 638, 641 (CCPA 1970). “In addition, the court found that the negative limitation ‘incapable of forming a dye with said oxidized developing agent’ was definite because the boundaries of the patent protection sought were clear.” *In re Barr*, 444 F.2d 588, 170 USPQ 330 (CCPA 1971). As such, the portion of claim 1 that was rejected by the Examiner is not indefinite. Therefore,

Applicants respectfully submit that independent claim 1 complies with the requirements of 35 U.S.C. § 112, second paragraph.

Independent claims 5-6 and 20-26 contain similar limitations as to independent claim 1, and for at least the same reasons as stated above for independent claim 1, claims 5-6 and 20-26 comply with the requirements of 35 U.S.C. § 112, second paragraph.

As such, Applicants respectfully request the Examiner to withdraw the rejection of claims 1, 5-6, 23 and 26.

### ***35 U.S.C. § 102 Rejection***

Claims 1-3, 5-8, 10-15, 18-28 and 30-32 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Shiu et. al, U.S. Patent No. 6,983,166 (hereinafter "Shiu").

Applicants respectfully traverse each of these rejections for at least the following reasons.

In Wideband Code Division Multiple Access (WCDMA), a physical channel can carry N transport channels, where N can be greater than one. Each transport channel may be associated with a respective block error rate (BLER) target and a respective SIR target. (See present application, para. 1042.) In WCDMA, power control is performed on the physical channel and not on the transport channels. (*Id.* at para. 1005). For power control, a received SIR of the physical channel is compared against an SIR target for the physical channel, and a transmit power control (TPC) command is generated based on the comparison result. (*Id.* at para. 1037 and FIG. 4).

The SIR target for the physical channel may be determined as disclosed by Shiu and also discussed in paragraph 1006 of the present application using an individual SIR target for each of

the N transport channels. Shiu discloses a power control method/apparatus for a channel with multiple formats in a communication system. Shiu discloses that in order to maintain an individual SIR target for each of the N transport channels, the individual SIR target for each transport channel based on transport blocks received on that transport channel is adjusted. Afterwards, the largest individual SIR target for all of the N transport channels is used as the SIR target for the physical channel.

Applicants submit that claim 1 is not anticipated by Shiu for at least the following reasons.

As discussed during the Interview, Shiu for example does not disclose "a controller operative to maintain a single signal quality (SIR) target for the plurality of transport channels, without maintaining an individual SIR target for each transport channel," as recited in claim 1. Shiu discloses maintaining a separate / individual target SNIR for each transport format of each transport channel. FIG. 7 of Shiu illustrates a loop (blocks 716 to 742) performed for each transport channel k to adjust the target SNIR for that particular transport channel k, which is denoted as  $SNIR_{Tck,TFi}(n+1)$  in blocks 722, 736 and 738. After the individual target SNIRs for all K transport channels have been adjusted, the largest individual target SNIR of all K transport channels is used as the target SNIR for the physical channel, which is denoted as  $SNIR_{ref}(n+1)$  in block 744. In other words, Shiu discloses that an individual SIR target for each of the N transport channels is maintained by adjusting the individual SIR target for each transport channel based on transport blocks received on that transport channel. Afterwards, the largest individual SIR target for all N transport channels is used as the SIR target for the physical channel. As a result, Shui does not disclose "a controller operative to maintain a single signal quality (SIR) target for the plurality of transport channels, without maintaining an individual SIR target for each transport

each transport channel," as recited in claim 1.

In contrast, independent claim 1 discloses, *inter alia*, a device in a wireless communication system, including a data processor operative to process at least one data block, received in a current update interval and on at least one transport channel among a plurality of transport channels, and to provide a status of each of the at least one data block, and a controller operative to maintain a single signal quality (SIR) target for the plurality of transport channels, without maintaining an individual SIR target for each transport channel, to adjust the single SIR target based on the status of the at least one data block received in the current update interval, and to use the single SIR target for power control of data transmission on the plurality of transport channels.

As stated in MPEP § 2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The Shiu reference applied by the Examiner neither expressly nor inherently describes every feature of Applicants' claimed combinations as detailed in the foregoing arguments. Therefore, Applicants respectfully submit that the applied references do not anticipate Applicants' claimed combinations as alleged by the Examiner.

Independent claims 5-6, 20-26 and 33 contain similar limitations as to independent claim 1, and for at least the same reasons as stated above for independent claim 1, claims 5-6, 20-26 and 33 are patentable.

Further, dependent claims 2-3, 7-8, 10-15, 18-19, 27-28 and 30-32 are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

### *Summary*

Once again Applicants' representative thanks the Examiner for his consideration and withdrawal of the 35 U.S.C. § 112, second paragraph, rejection to claims 1, 5-6, 23 and 26. Further, although Applicants have summarized the arguments for distinguishing the present claims over the applied art, Applicants expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicants have not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the March 12, 2008 response without a literal rendition of those arguments in this response.

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Amendment dated November 17, 2008  
Reply to Office Action of July 15, 2008

### CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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By: 

Eric Ho, Reg. No. 39711  
858-658-2752

QUALCOMM Incorporated  
Attn: Patent Department  
5775 Morehouse Drive  
San Diego, California 92121-1714  
Telephone: (858) 658-5787  
Facsimile: (858) 658-2502